

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

RICHARD J. HILL,

Plaintiff,

v

JUSTIN WONCH, and  
TOWNSHIP OF FORSYTH

Defendants.

U.S. District Judge:  
Hon. Janet T. Neff

U.S. Magistrate Judge:  
Maarten Vermaat

Case No: 2:19-cv-159

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**DEFENDANT FORSYTH TOWNSHIP'S  
REQUEST FOR PRE-MOTION CONFERENCE**

Co-Defendant Police Officer Justin Wonch is contemporaneously herewith requesting a Pre-Motion Conference for his anticipated Motion for Summary Judgment, which is expected to raise two alternative grounds for dismissal. In the event Officer Wonch's motion is granted on either ground, this defendant, Forsyth Township, the officer's employer, will likewise be entitled to Summary Judgment (for the reasons summarized below). Forsyth Township thus hereby requests permission to file its Motion in compliance with the same briefing schedule as is set for Defendant Justin Wonch.

In Count I of the Complaint, Plaintiff Richard "Jack" Hill asserts that Forsyth Police Officer Justin Wonch used excessive force in violation of the Fourth Amendment during an arrest on March 22, 2019. Bodycam video exists showing that plaintiff verbally and physically resisted

arrest, and as a result the officer had to use control techniques to subdue and handcuff him. Plaintiff suffered severe injuries apparently as a result of the officer's knee strikes.

Officer Wonch's motion will seek dismissal of Count I, where the force used was reasonable (and therefore did not violate the plaintiff's Fourth Amendment rights); and/or where his actions did not violate clearly established law (therefore entitling him to Qualified Immunity).

In Count II of the Complaint, plaintiff asserts, pursuant to a *Monell* theory, that Forsyth Township caused the constitutional violation.

The Township's motion will ask for dismissal if the Officer's motion is granted, where:

(a) The deprivation of a constitutional right is a prerequisite to municipal liability under Section 1983. See *Pollard v. City of Columbus*, 780 F.3d 395, 401 (6<sup>th</sup> Cir. 2015). Alternatively, where the officer is entitled to dismissal on qualified immunity grounds, then the fact that the right was not clearly established requires the conclusion that the Employer was not reckless or deliberately indifferent to the need for training or other corrective action to prevent a violation of that right. A municipality cannot be deliberately indifferent to a history or pattern of unconstitutional conduct that has not yet been clearly established as such. *Sumpter v Wayne County*, 868 F.3d 473, 490 (6<sup>th</sup> Cir. 2017); *Arrington Bey v City of Bedford Heights*, 858 F.3d 988, 994 (6<sup>th</sup> Cir. 2017); *Hagans v Franklin County Sheriff's Office*, 695 F.3d 505, 511 (6<sup>th</sup> Cir. 2012).

The movant requests that counsel be allowed to attend the pre-motion conference by phone or videoconference in light of the Coronavirus limitations on travel and in-person interactions as well as the distance from Your Honor's courtroom.

Respectfully submitted,

KITCH DRUTCHAS WAGNER  
VALITUTTI & SHERBROOK

By: /s/ Susan D. MacGregor  
Susan D. MacGregor

Dated: July 2, 2020